

**IN THE COURT OF APPEALS OF IOWA**

No. 3-653 / 13-0029

Filed July 24, 2013

**IN THE INTEREST OF R.V.,  
A Child,**

**R.V., Minor Child,  
Appellant.**

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Appeal from the Iowa District Court for Polk County, Rachael E. Seymour,  
District Associate Judge.

R.V. appeals the juvenile court's adjudication of delinquency and denial of  
a consent decree. **AFFIRMED.**

Jane M. White of Jane M. White Law Office, Des Moines, for appellant  
child.

Thomas J. Miller, Attorney General, Bruce Kempkes, Assistant Attorney  
General, John Sarcone, County Attorney, and Christina Gonzales, Assistant  
County Attorney, for appellee State.

Considered by Vogel, P.J., and Vaitheswaran and Bower, JJ.

**VOGEL, P.J.**

**I. Factual and Procedural Background**

On October 5, 2012, R.V. was charged by two separate delinquency petitions alleging assault, disorderly conduct, and theft in the fifth degree. On December 13, 2012, R.V. pleaded guilty to one count of theft and one count of simple assault, both simple misdemeanors, pursuant to a plea agreement whereby the State agreed to dismiss the disorderly conduct charge and join in R.V.'s request for a consent decree. R.V. waived time and notice for disposition, and the matter proceeded to disposition. The State, through the assistant county attorney, as well as the juvenile court officer, recommended a consent decree, asserting it was appropriate in this case. In support of this request, the State offered into evidence the predispositional report prepared by the juvenile court officer. Notwithstanding this request, the juvenile court denied the entry of a consent decree and entered a combined delinquency adjudication and disposition order granting probation.

R.V. is seventeen years old, and this was her first formal referral to juvenile court. Two years prior to this proceeding, R.V. was adjudicated a child in need of assistance (CINA) because her parents were selling drugs out of their home. After numerous services were provided to her parents the CINA case closed, and R.V. remained in her father's custody. Due to discord in this family, R.V. has had difficulty attending school. Specifically, she had extremely poor attendance prior to being placed in an alternative program and was in fact placed in this program so she could recover credits previously missed.

R.V. also failed to attend a court date in the delinquency proceedings on October 26, 2012. That morning, R.V. called her juvenile court officer to inform him she could not attend court. The juvenile court issued a warrant, and R.V. self-reported to Meyer Hall. She was released into her father's custody the next day. During the disposition hearing R.V.'s father stated she was gone two days prior to the hearing, and did not return the morning of the hearing for him to transport her to court.

R.V. has remained in compliance with all conditions in her pre-trial order. She has kept in contact with her probation officer, complied with the rules at home and school with no other referrals for delinquent behavior, and provided clean drug screens. In determining whether to issue a consent decree, the court did not mention R.V.'s compliance but noted R.V. has not had prior referrals to the juvenile court and has improved her attendance at school since being placed in an alternative program. However, the court based its decision to deny the consent decree on the fact R.V. has continued to miss school,

but more obvious is the fact that she has failed to attend a court proceeding and this court had to issue a warrant for her arrest. The information to this court at the time that I issued that warrant and what has been told to this court again is that [R.V.] got into a fight with her father, she left the father's home, she was not home where she was supposed to be, and then she subsequently not only missed school, but she missed a court appearance. You don't skip court and then get a consent decree . . . . This court certainly understands, [R.V.], that you have issues that you've dealt with that other kids don't have to. I don't care. I ordered you to be at court, and that's what I expected you to do. And if it was important for you to not have these matters on your juvenile court record, you would have found a way to get here . . . . The court does not grant you a consent decree for that reason.

Additionally, when entering the probation order, the court noted it

certainly would be happy to expunge your record if you can, in fact, demonstrate that these matters shouldn't remain on your record. You have to stay out of trouble for a period of two years from when the court closes your case, and then you can come back, ask your records be sealed, and if you haven't got into any further trouble, I would be happy to do that.

R.V. now appeals this adjudication of delinquency, claiming the juvenile court abused its discretion in not granting a consent decree under the unique facts of this case. Additionally, R.V. maintains the court went beyond the authority granted to it by Iowa Code section 232.46(3) (2011). R.V. argues that, because the county attorney did not object to the consent decree, under the plain language of the statute the court did not have discretion to deny her request. To interpret the statute to require the juvenile to bring in substantial evidence to support her request for a consent decree, even when it is uncontested, creates an unreasonable burden on the child. R.V. urges we interpret the statute to mandate a consent decree be entered when all parties are in agreement. The State did not file an opposing brief.

## **II. Standard of Review**

With respect to determinations of statutory interpretation, we review for correction of errors at law. *In re J.J.A.*, 580 N.W.2d 731, 737 (Iowa 1998). Alternatively, we review the decision whether or not a consent decree is granted and adjudications of delinquency de novo, "to the extent of examining all the evidence to determine whether the court abused its discretion." *Id.* at 740 (internal citations omitted). If the State opposes the consent decree, the burden is on the juvenile to show by a preponderance of the evidence good cause exists to enter the decree. *Id.*; see also *State v. Iowa Dist. Ct.*, 828 N.W.2d 607, 612–

13 (Iowa 2013) (“The consent decree is essentially a bipartite arrangement between the juvenile court and the allegedly delinquent child that is memorialized in a court order (hence the term ‘consent decree’). Even if the county attorney objects to the consent decree, the juvenile court may enter it over the county attorney’s objections.”).

### **III. Whether the Juvenile Court had Authority to Deny the Consent Decree**

When interpreting a statute, we “avoid strained, impractical or absurd results” and give ordinary language its plain meaning, “but the manifest intent of the legislature will prevail over the literal import of the words used.” *Renda v. Iowa Civil Rights Comm’n*, 784 N.W.2d 8, 15 (Iowa 2010) (internal citations omitted). Additionally, we “look to the object to be accomplished and the evils and mischiefs sought to be remedied in reaching a reasonable or liberal construction which will best effect its purpose rather than one which will defeat it.” *Id.* We consider all parts of the statute together and do not give undue importance to any single portion. *Id.*

However, these rules of statutory construction only apply when the statute is ambiguous. *State v. Wiederien*, 709 N.W.2d 538, 541 (Iowa 2006). A statute is considered ambiguous if reasonable minds can disagree on its meaning. *Id.* If a statute is indeed ambiguous, the rule of lenity requires us to interpret criminal statutes strictly, with doubts resolved in favor of the defendant. *State v. Hearn*, 797 N.W.2d 577, 585 (Iowa 2011). While juvenile delinquency proceedings are not criminal prosecutions, they serve as the alternative to criminal prosecutions of children. *In re J.D.S.*, 436 N.W.2d 342, 344 (Iowa 1989). Therefore, the same rule of statutory interpretation applies.

Iowa Code section 232.46(3) states:

A consent decree shall not be entered unless the child and the child's parent, guardian or custodian is informed of the consequences of the decree by the court and the court determines that the child has voluntarily and intelligently agreed to the terms and conditions of the decree. If the county attorney objects to the entry of a consent decree, the court shall proceed to determine the appropriateness of entering a consent decree after consideration of any objections or reasons for entering such a decree.

When discussing the issue of consent decrees, the supreme court has noted this section "provides a juvenile judge with discretion to sustain or deny a motion to suspend the juvenile proceedings, for the purpose of entering a consent decree, up to the point in time when an order of adjudication of delinquency . . . is actually entered." *In re Rousselow*, 341 N.W.2d 760, 764 (Iowa 1983); see also *J.J.A.*, 580 N.W.2d at 740 (no abuse of discretion when granting the juvenile's motion for a consent decree).

While reasonable minds could conceivably differ on the interpretation of section 232.46, under previous case law, the juvenile court has discretion pursuant to this statute to deny entry of a consent decree. As such, even when the State supports a consent decree, the court nonetheless has the ability to consider whether or not entry is appropriate. Therefore, the juvenile court did not exceed its authority under this statute by refusing to grant a consent decree.

#### **IV. Whether the Juvenile Court Abused its Discretion in Denying the Consent Decree Given the Facts of This Case**

While finding the court maintains discretion to determine whether to grant or deny a consent decree, we next review whether, under the particular facts of this case, the juvenile court abused its discretion when denying R.V.'s request for a consent decree. The court cited no reason, other than one missed court date,

to not enter a consent decree. In its colloquy, the court essentially ignored the fact R.V. completed all pretrial conditions, such as keeping in contact with her probation officer, complying with the rules at home and school with no other referrals for delinquent behavior, and providing clean drug screens. Additionally, R.V. has improved her grades and was only before the court on misdemeanor charges. When acknowledging the fact R.V. has suffered many setbacks due to her family situation, the court stated “I don’t care.” Considering the court went on to impose a probationary sentence and stated it believed R.V. could later expunge this delinquency adjudication, it is clear the court believed R.V. would be successful if a consent decree was issued.

However, on this record, and with deference to the juvenile court’s findings, we cannot say the court abused its discretion. We review the facts of the case de novo but only find a juvenile court abuses its discretion if its decision rests on grounds clearly untenable or to an extent clearly unreasonable. *In re B.A.*, 737 N.W.2d 665, 667–68 (Iowa Ct. App. 2007). Here, the juvenile court conducted a lengthy dispositional hearing, offered all parties the opportunity to speak and present support for their recommendations, and considered all the facts presented before rendering its decision. Given the wide discretion of the juvenile court’s authority, it may impose what it considers appropriate consequences for the circumstances. Thus, even though there is not a great deal of factual support for the court’s decision, it did not go so far as to abuse its discretion.

**AFFIRMED.**